



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/730,149	12/07/2003	Farooq Ullah Khan	2100.021500	2336
46290	7590	10/31/2007		
WILLIAMS, MORGAN & AMERSON 10333 RICHMOND, SUITE 1100 HOUSTON, TX 77042			EXAMINER JAIN, RAJ K	
			ART UNIT	PAPER NUMBER
			2616	
			MAIL DATE	DELIVERY MODE
			10/31/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/730,149

Applicant(s)

KHAN, FAROOQ ULLAH

Examiner

Raj K. Jain

Art Unit

2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) 7-31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION***Claim Rejections - 35 USC § 102***

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-6 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Willenegger et al (USP 6,775,254, B1).

Regarding claim 1, Willenegger discloses a method of communication (see Fig. 4) comprising: communicating at least one physical layer frame (Fig. 1b physical layer frame with voice and data packets) the frame including content frames (Fig. 1b, content frames having voice and data packets) and formed by selecting a portion of a plurality of content frames available for communicating via the at least one physical layer frame (Fig. 3, col 14 lines 14-20, portions of content frame can be selected and interleaved prior to transmission), the portion being selected based on a condition of a channel for communicating said at least one physical layer frame (Fig. 3, col 5 lines 20-27, portion of either voice or data can be selected based on the channel condition such as transmission interval, type of service (Gos), data rates, etc, col 1 lines 58-67, col 9 lines 27-33), combining the selected portion of the plurality of content frames with a header formed according to a transmission protocol (Fig. 4, col 9 lines 37-60, the selected portion ie. Voice or data frames are combined and properly modulated based on W-CDMA protocol).

Regarding claim 2, Willenegger discloses step of communicating comprises at least one of transmitting the at least one physical layer frame and receiving the at least one physical layer frame (Fig. 4 discloses basic TX and RX configuration).

Regarding claim 3, Willenegger discloses selecting the portion of the plurality of content frames comprising modifying a number of content frames used to form the at least one physical layer frame, and wherein each content frame comprises at least one of a voice frame and a data frame. (Fig. 3, packet size is varied in size comprising of voice and data frames as appropriate 310-340, col 6 lines 47-62).

Regarding claim 4, Willenegger discloses one of receiving a signal comprising information corresponding with the channel condition; and transmitting the signal comprising the information corresponding with condition the channel (see Figs. 2a, 5, col 4 lines 19-32, discloses transmit signal with voice and data channel usage or condition changes).

Regarding claim 5, Willenegger discloses communicating is performed over at least one of an uplink (see Fig. 4 wireless communication).

Regarding claim 6, Willenegger discloses at least one physical layer frame corresponds with a payload having at least two content frames and at least one IP header (Fig. 3 shows two content frames 332b and 334 and header TPC, TFCI).

Response to Arguments

Applicant's arguments with respect to claims 106 have been considered but are moot in view of the new ground(s) of rejection.

While Examiner has addressed all limitations in the amended claims, however, for completeness, Examiner addresses specific concerns not already addressed elsewhere in this Office Action.

Applicant contends using Sasano (USP 5,200,994) reference, however, the Examiner believes this to be a typo as the 35 USC 102(e) rejection was based on the Willenegger et al (USP 6,775,254, B1) and therefore will address all concerns with respect to the Willenegger art.

Applicant contends the cited art fails to disclose “dynamic frame aggregation technique in which physical layer frames are formed”. Examiner would like to point out that this portion of the limitation is deleted from current amended claims and is therefore a moot point. Applicant further contends Willenegger fails to disclose “any frame aggregation techniques.....is silent with regard to aggregating content frames into a physical layer frame”. Again Examiner asserts no specific “frame aggregation technique” is addressed in the amended claims and therefore is a moot point.

Based on the foregoing arguments and/or rejection, Examiner respectfully asserts the amended claims are anticipated based on the cited art and therefore the rejection to claims 1-6 is sustained.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raj K. Jain whose telephone number is 571-272-3145. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham can be reached on 571-272-3179. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

Art Unit: 2616

you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Raj K. Jain

/Raj K. Jain/

Art Unit 2616

October 25, 2007


CHI PHAM
SUPERVISORY PATENT EXAMINER

10/29/07